

REMARKS**I. General**

Claims 1-24 are pending in the present application. Claims 1-3 and 5-24 stand rejected in the current Office Action, mailed June 3, 2005. Applicant notes with appreciation that claim 4 would be allowed if rewritten in independent form including all of the limitations of the base claim and any intervening claim. The issues raised in the Office Action are:

- Claims 1-3, 12-13, 18, and 21-22 stand rejected under 35 U.S.C. § 102(e) as being anticipated by published U.S. Patent Application No. 2001/0001268A1 to Menon et al. (hereinafter “Menon”);
- Claims 5-7, 9, and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Menon in view of U.S. Patent No. 5,489,914 issued to Breed et al. (hereinafter “Breed”);
- Claims 8 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Menon in view of U.S. Patent No. 4,823,280 issued to Mailandt et al. (hereinafter “Mailandt”);
- Claims 10-11 and 16-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Menon in view of U.S. Patent No. 6,385,609 issued to Barshefsky et al. (hereinafter “Barshefsky”); and
- Claims 14-15 and 23-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Menon in view of published U.S. Patent Application No. 2002/0147936A1 to Wiczer (hereinafter “Wiczer”).

In response, Applicant respectfully traverses the outstanding claim rejections and requests reconsideration and withdrawal thereof in light of the remarks presented herein.

II. Rejections Under 35 U.S.C. § 102

Claims 1-3, 12-13, 18, and 21-22 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Menon. It is well settled that to anticipate a claim, the reference must teach

every element of the claim. M.P.E.P. § 2131. Moreover, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). Applicants respectfully assert that the rejection does not satisfy these requirements.

Independent Claim 1

Claim 1 recites, in part, “acquiring ... local to a basestation measurement data for at least one network link parameter ... at least one wireless link parameter ... and ... at least one operational parameter of said basestation.” Menon does not teach at least this element of claim 1. That is, Menon does not teach acquiring measurement data local to a basestation for all three of the types of data required by the claim: 1) a network link parameter, 2) a wireless link parameter, and 3) an operational parameter. Rather, Menon teaches only acquiring two types of data or measurements: “failure information” and “radio quality.” Menon, paragraph 226, lines 5-7; and paragraph 227, lines 4-11. Menon does not teach acquiring measurement data of a network link parameter local to a basestation.

The Office Action points to Menon, paragraphs 224-228 as meeting the element of claim 1 given above. However, paragraphs 224-226 of Menon disclose only “hardware/software/firmware status,” “self-test” and “self-supervision.” These tests are of equipment contained within Menon’s base stations 30 and 101, and so do not constitute measurement data for a network link parameter as required by claim 1. Menon also discloses verifying “over-the-air interference” in paragraph 225, along with “radio quality,” “signal strength” and other similar values for “over-the-air channels” in paragraphs 227-228. These also do not constitute measurement data for a network link parameter as required by claim 1.

Menon does disclose a network link in that it discloses a T1/E1 link. Menon, paragraph 444, lines 1-4 and Figures 27-33. However, Menon does not disclose acquiring measurement data for any network link parameter. Thus, Menon does not disclose every limitation of claim 1 in the same level of detail as is in claim 1, as required by M.P.E.P. § 2131.

Additionally, claim 1 recites, in part, “formatting said measurement data ... into a uniform format.” Menon not disclose this element of claim 1, either. Specifically, Menon discloses that “self-supervision” information is provided to the OMC 72 “via hardware status failure reports,” but makes no mention that the format of such reports is uniform with over-the-air-channel measurement values. Menon, paragraph 226, lines 5-7. Since Menon does not disclose that the different information is formatted into a uniform format, Menon does not teach this limitation of claim 1.

Further, claim 1 recites, in part, “acquiring at a monitoring probe ... local to a basestation measurement data.” Menon does not disclose that both the self-tests and over-the-air channel measurements are collected by a monitoring probe. Rather, Menon seems to imply that the self-tests and over-the-air channel measurements are handled separately, and by entirely different equipment.

In view of the above, claim 1 is not anticipated by Menon because Menon fails to teach at least those elements identified above. Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(e) rejection of claim 1, and asserts that claim 1 is patentable.

Independent Claim 12

Claim 12 recites, in part, “said monitoring probe operable to acquire measurement data for at least one network link parameter ... at least one wireless link parameter ... and at least one operational parameter of said basestation.” Menon does not teach at least this element of claim 12. As shown above in the arguments for claim 1, Menon does not teach acquiring measurement data local to a basestation all three of the types of data required by the claim: 1) a network link parameter, 2) a wireless link parameter, and 3) an operational parameter. Rather, Menon teaches only acquiring two types of data or measurements: “failure information” and “radio quality.” Menon, paragraph 226, lines 5-7; and paragraph 227, lines 4-11. Menon does not teach acquiring measurement data of a network link parameter local to a basestation.

Additionally, claim 12 recites, in part, “format the acquired measurement data into a uniform format.” Menon not disclose this element of claim 12, either. As shown above in

the arguments for claim 1, Menon does not disclose that the different types of information reported by Menon are formatted into a uniform format.

Further, claim 12 recites, in part, “a monitoring probe arranged local to a basestation ... operable to acquire measurement data for at least one network link parameter ... at least one wireless link parameter ... and at least one operational parameter.” Menon does not disclose this element of claim 12. As shown above in the arguments for claim 1, Menon does not disclose that the different types of data are acquired by a monitoring probe, but instead implies entirely separate monitoring schemes.

In view of the above, claim 12 is not anticipated by Menon, because Menon fails to teach at least those elements identified above. Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(e) rejection of claim 12, and asserts that claim 12 is patentable.

Independent Claim 21

Claim 21 recites, in part, “at least one module for acquiring measurement data for at least one network link parameter ... at least one module for acquiring measurement data for at least one wireless link parameter ... at least one module for acquiring measurement data for at least one operational parameter.” As shown above in the arguments for claim 1, Menon does not teach acquiring measurement data local to a basestation all three of the types of data required by the claim: 1) a network link parameter, 2) a wireless link parameter, and 3) an operational parameter. Rather, Menon teaches only acquiring two types of data or measurements: “failure information” and “radio quality.” Menon, paragraph 226, lines 5-7; and paragraph 227, lines 4-11. Menon does not teach acquiring measurement data of a network link parameter local to a basestation.

Additionally, claim 21 recites, in part, “formatting the measurement data ... into a uniform format.” Menon not disclose this element of claim 21, either. As shown above in the arguments for claim 1, Menon does not disclose that the different types of information reported by Menon are formatted into a uniform format.

Further, claim 21 recites, in part, “a controller for formatting the measurement data ... and an interface ... for communicating, in said uniform format ... to a remote ... system.”

Menon does not disclose this element of claim 21. As shown above in the arguments for claim 1, Menon does not disclose that different types of data acquired at a basestation are under the control of a controller prior to communicating to a remote system. Rather, Menon seems to imply separate handling of the “failure information” and “radio quality.”

In view of the above, claim 21 is not anticipated by Menon, because Menon fails to teach at least those elements identified above. Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(e) rejection of claim 21, and asserts that claim 21 is patentable.

Dependent Claims

Claims 2-3, 13, 18 and 22 depend from a respective one of independent claims 1, 12, and 21, and thus inherit all limitations of their respective base claims. As shown above, Menon does not anticipate claims 1, 12 or 21. Applicant asserts that these dependent claims are patentable for, at least, the reasons set forth above with respect to the base claims 1, 23 and 33. Accordingly, Applicant requests the Examiner withdraw the U.S.C. § 102(e) rejection of claims 2-3, 13, 18 and 22. Moreover, these dependent claims set forth additional features and limitations not disclosed by Menon.

For example, claims 3 and 18 both recite, in part, “wherein said measurement data for at least one network link parameter comprises at least one type of measurement selected from the group consisting of: at least one T1 measurement, and at least one E1 measurement.” While Menon does disclose the use of a T1/E1 link, Menon makes no mention of either T1 or E1 measurements.

Claim 13 recites, “said monitoring probe comprises a controller operable to communicate, in said uniform format ...” Menon does not disclose that different types of data acquired at a basestation are under the control of a controller prior to communicating to a remote system. Rather, Menon seems to imply separate handling of the “failure information” and “radio quality.”

III. Rejections Under 35 U.S.C. § 103

Claims 5-7, 9, and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Menon in view of Breed. Claims 8 and 20 are rejected under 35 U.S.C. § 103(a) as

being unpatentable over Menon in view of Mailandt. Claims 10-11 and 16-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Menon in view of Barshefsky. Claims 14-15 and 23-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Menon in view of Wiczer.

As described above, Applicant respectfully submits that independent claims 1, 12, and 21 are of patentable merit. Each of dependent claims 5-11, 14-17, 19-20, and 23-24 depend either directly or indirectly from one of independent claims 1, 12, and 21, and thus are believed to be of patentable merit based at least on their dependencies from their respective independent claims.

IV. Conclusion

In view of the above, Applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-1078, under Order No. 10020057-1 from which the undersigned is authorized to draw.


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